

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ESTATE OF JOYCE ROSAMOND
PETERSEN,

Plaintiff,

vs.

ROBERT W. BOLAND, JR., UNITED
FINANCIAL SERVICES, WILLIAM E.
BITTERS and JOHN L. HENRY,

Defendants.

8:16CV183

MEMORANDUM AND ORDER

This matter is before the Court on defendant John L. Henry's *pro se* request for additional time in which to answer the Amended Complaint (Filing No. 108).

As noted in this Court's Memorandum and Order of August 18, 2016, the record reflects that defendant Henry was personally served with the original Complaint in this matter on March 18, 2015. As also noted in that Memorandum and Order, the record also reflects that no pleadings in the transferor court (the Eastern District of Texas) were filed by Henry.

After dealing with a number of motions relating to the alleged default of Henry including setting aside Default Judgment against Henry, the Court directed Henry to file an Answer to the Amended Complaint within 10 days of August 18, 2016 (Filing No. 103). The current motion, filed August 31, 2016, is now before the Court. In his motion Henry claims that he never received the Amended Complaint and that he had been out of town, and therefore did not receive Filing No. 103 until August 30, 2016.

In viewing the Amended Complaint filed, with leave of Court, on August 8, 2016 (Filing No. 99), the certificate of service filed by plaintiff's counsel indicates only that

“Plaintiff will make a diligent effort within a reasonable time to serve this document on any parties, i.e. John Henry, who have not made an appearance through counsel and otherwise consented to receive electronic service.”

A review of CM/ECF in this case, however, shows that Henry had provided an address update (albeit a P.O. Box) on July 18, 2016. As a *pro se* litigant, Henry does not currently have access to electronic filing, and the Amended Complaint should have been served on him at the P.O. Box address he has provided for service.

In order to facilitate progression of this case and, given the many delays, a copy of the Amended Complaint will be appended to the copy of this Order that is sent via U.S. mail to Henry so as to allow Henry to timely answer the Complaint or otherwise respond under Rule 12.

In the future, the represented parties should serve all motions and other pleadings on Henry at the P.O. Box (or any subsequent address) noted on CM/ECF.

Similarly, due to the many delays in this case directly attributable to Henry, Henry is admonished that even though he is proceeding *pro se*, he is under an obligation to follow all of the rules of this Court, including keeping the Court and counsel apprised of his latest address. In addition, and especially given the fact that Henry is receiving service at a Post Office Box, Henry is admonished that he must regularly check that Post Office Box so that he can *timely* reply where necessary and timely comply with any orders of this Court. Not checking that Post Office Box or being “out of town” will not excuse Henry from timely compliance with Court rules or his obligation in this litigation. Henry is also reminded of his obligation to serve all parties, by U.S. mail, and to send to the Clerk’s Office for filing, all motions and other documents he presents to the Court.

In consideration of the foregoing,

IT IS ORDERED:

1. The Clerk of Court is directed to mail a copy of the plaintiff's Amended Complaint (Filing No. 99), together with this Order, to defendant Henry at the most recent address he has made available to the Court:

John L. Henry
P.O. Box 27659
Omaha, NE 68127

2. Defendant Henry's request for additional time in which to answer (Filing No. 108) is granted.
3. Defendant Henry shall file an answer or otherwise respond to the plaintiff's Amended Complaint (Filing No. 99) within ten (10) days of the date of this order.

DATED this 6th day of September, 2016.

BY THE COURT:

s/ Robert F. Rossiter, Jr.
United States District Judge